

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 10-04438 (SMB)

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

ESTATE OF SEYMOUR EPSTEIN,

MURIEL EPSTEIN, as beneficiary and of the Estate
of Seymour Epstein and/or the Trusts created by the
Last Will and Testament of Seymour Epstein, as
Executor of the Estate of Seymour Epstein, and as
trustee of Trusts created by the Last Will and
Testament of Seymour Epstein,

HERBERT C. KANTOR, as trustee of Trusts created
by the Last Will and Testament of Seymour Epstein,

RANDY EPSTEIN AUSTIN, as beneficiary of the
Estate of Seymour Epstein and/or the Trusts created
by the Last Will and Testament of Seymour Epstein,

ROBERT EPSTEIN, as beneficiary of the Estate of
Seymour Epstein and/or the Trusts created by the Last
Will and Testament of Seymour Epstein,

JANE EPSTEIN, as beneficiary of the Estate of
Seymour Epstein and/or the Trusts created by the Last
Will and Testament of Seymour Epstein,

SUSAN EPSTEIN GROSS, as beneficiary of the
Estate of Seymour Epstein and/or the Trusts created
by the Last Will and Testament of Seymour Epstein,
and

SHELBURNE SHIRT COMPANY, INC.,

Defendants.

**DECLARATION OF NICHOLAS J. CREMONA IN SUPPORT OF
TRUSTEE'S MOTION FOR SUMMARY JUDGMENT**

I, Nicholas J. Cremona, declare the following:

1. I am a Partner with the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard, as trustee ("Trustee") for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III, and the chapter 7 estate of Bernard L. Madoff. I submit this Declaration in support of the Trustee's Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of the SEC Form BD for Bernard L. Madoff dated December 31, 1959 (PUBLIC0003607).

3. Attached hereto as Exhibit 2 is a true and correct copy of Amended Form BD for Bernard L. Madoff Investment Securities LLC dated January 12, 2001.

4. Attached hereto as Exhibit 3 are true and correct excerpts from the testimony of Frank DiPascali, Jr. during the multi-day criminal trial *United States v. Bonventre*, No. 10-CR-228 (LTS) (S.D.N.Y.), ECF Nos. 858, 862, 884.

5. Attached hereto as Exhibit 4 is a true and correct copy of an exemplar of JPMorgan Chase Bank, N.A. statements for account #xxxxxx1703 and account #xxxxxxxxxx1509.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Plea Allocution of Bernard L. Madoff, *United States v. Madoff*, No. 09-CR-213 (DC) (S.D.N.Y. Mar. 12, 2009), ECF No. 57.

7. Attached hereto as Exhibit 6 is true and correct copy of the Plea Allocution of Frank DiPascali, Jr., *United States v. DiPascali*, No. 09-CR-764 (RJS) (S.D.N.Y. Aug. 11, 2009), ECF No. 12.

8. Attached hereto as Exhibit 7 is true and correct copy of the Plea Allocution of David L. Kugel, *United States v. Kugel*, No. 10- CR-228 (LTS) (S.D.N.Y. Nov. 21, 2011), ECF No. 188.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Plea Allocution of Irwin Lipkin, *United States v. Irwin Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. Nov. 8, 2012), ECF No. 288.

10. Attached hereto as Exhibit 9 is a true and correct copy of the Plea Allocution of Eric S. Lipkin, *United States v. Eric S. Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. June 6, 2011), ECF No. 148.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Plea Allocution of Enrica Cotellessa-Pitz, *United States v. Cotellessa-Pitz*, No. 10-CR-228 (LTS) (S.D.N.Y. Dec. 19, 2011), ECF No. 1512.

12. Attached hereto as Exhibit 11 are true and correct copies of the following discovery responses in *Picard v. Estate of Seymour Epstein*, Adv. Pro. No. 10-04438 (Bankr. S.D.N.Y.):

- Responses and Objections of Defendants Estate of Seymour Epstein and Muriel Epstein, As Executrix of the Estate of Seymour Epstein and as trustee of the Trusts created by the

Last Will and Testament of Seymour Epstein to Trustee's First Set of Interrogatories,
dated October 25, 2016; and

- Responses and Objections of Defendant Shelburne Shirt Company, Inc. to Trustee's First Set of Interrogatories, dated October 25, 2016.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Tr. of Oral Arg. at 114:10–11, *Picard v. Marilyn Bernfeld Trust*, Adv. Pro. No. 10-05143 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015) and Tr. of Oral Argument at 100:19, *Picard v. Mendelow*, Adv. Pro. No. 10-04283 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015).

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: September 4, 2020
New York, New York

Respectfully submitted,

BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona
Nicholas J. Cremona